

Massachusetts Opportunity Relocation and Expansion (MORE) Jobs Capital Program

2010 Program Guidelines (revised December 2009)

Issued by:
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These guidelines are issued by the Secretary of Housing and Economic Development pursuant to the authority granted by Chapter 123 of the Acts of 2006 and Chapter 304 of the Acts of 2008, the MORE Jobs Capital Program legislation. The guidelines are provided to the public and potential applicants for their information only, and are merely intended to provide illustrative guidance to the application process. The Secretary reserves the right to amend, modify, or otherwise alter these guidelines as required, without notice. Applicants to the MORE Jobs Program should refer to the application form or the MORE Jobs Program administrator for further information. Nothing in these guidelines shall restrict the Secretary's authority as granted by the MORE legislation.

1. Official Authorization:

Chapter 123 of the Acts of 2006

1100-8000 For the Massachusetts Opportunity Relocation and Expansion Jobs Capital Program related to site remediation, preparation and ancillary infrastructure improvement projects; provided that the local executive government body and a for-profit entity involved in the project shall jointly submit a request for funding to the secretary of economic development; and provided further, that not less than \$10,000,000 shall be used for a bio-processing facility at, or near the University of Massachusetts at Dartmouth, or on behalf of a chapter 180 corporation established pursuant to section 108 of this act, subject to the discretion of the president of the University of Massachusetts. The requests to the secretary shall include sufficient documentation, including but not limited to, a project plan with specific goals and objectives that fully documents the proposed project and either that (i) the businesses associated with the project will generate substantial sales from outside the commonwealth and will result in the creation of a net increase of at least 100 new permanent full-time jobs in Massachusetts within 24 months upon receipt of a grant and commits that the jobs are to be maintained herein for at least a five year period or (ii) documents an economic benefit that the secretary determines is sufficiently exceptional. The secretary shall, not later than December 31, 2006 promulgate regulations or issue guidelines regarding the proposed program described herein; provided further, that annually on or before December 31, the secretary shall issue a written report to the clerk of the house of representatives and the clerk of the senate, which shall include detailed descriptions of any infrastructure improvement projects funded pursuant to this program and all funds expended for this purpose..... \$100,000,000

Chapter 304 of the Acts of 2008

1100-8020 For the Massachusetts Opportunity Relocation and Expansion Jobs Capital Program related to site remediation, preparation and ancillary infrastructure improvement projects; provided, that the local executive government body and a for-profit entity involved in the project shall jointly submit a request for funding to the secretary of housing and economic development which shall include sufficient documentation including, but not limited to, a project plan with specific goals and objectives that fully documents the proposed project and demonstrates that the businesses associated with the project will generate substantial sales from outside the commonwealth and will result in the creation of a net increase of at least 100 new permanent full-time jobs in Massachusetts within 24 months after receipt of a grant and commits that the jobs are to be maintained for at least a 5-year period and the jobs do not replace existing jobs elsewhere in the commonwealth; and

provided further, that twice annually the secretary shall issue a written report to the clerk of the house of representatives and the clerk of the senate, who shall forward the same to the chairs of the house and senate committees on ways and means and the chairs of the joint committee on economic development and emerging technologies which shall include detailed descriptions of any infrastructure improvement projects funded under this program, an accounting of the variance, if any, between proposed jobs and actual creation of jobs, the current and estimated amount of taxable income expected from each project and all funds expended for this purpose; provided further, that not less than \$25,000,000 shall be granted to gateway cities and cities with more than 40,000 inhabitants but fewer than 175,000 inhabitants where: (1) the unemployment rate is at least 1.5 per cent higher than the statewide average; or (2) the median income of the city is 80 per cent or less of the state median income; and provided further, that not less than \$15,000,000 shall be expended on projects in cities in which both criteria are applicable..... \$100,000,000

2. Program Description

The Massachusetts Opportunity Relocation and Expansion (MORE) Jobs Capital Program provides grant funding to support public infrastructure associated with economic development projects that support substantial job growth in the Commonwealth of Massachusetts.

3. Eligible Applicants

Eligible applicants are municipalities and for-profit entities throughout the Commonwealth of Massachusetts that are partnering with each other for the purposes of applying to the MORE Jobs Program.

4. Eligible Public Infrastructure Projects:

The Executive Office of Economic Development may, upon the Secretary of Housing and Economic Development's determination, award funding to municipalities in order to assist with the costs of developing publicly owned infrastructure that will directly support eligible economic development projects.

Eligible public infrastructure projects are:

- a) Construction or improvement of publicly owned infrastructure that is ancillary to the overall economic development project and necessary and appropriate to support the project.
- b) Site remediation or site preparation activities necessary to advance the public infrastructure project.

Eligible publicly owned infrastructure includes, but is not limited to: sewers, utility extensions, streets, roads, curb-cuts, parking facilities, and water treatment systems. Eligible public infrastructure must be located on public land or on public leasehold, right-of-way, or easement. The costs of site acquisition and initial environmental site assessment are NOT eligible for funding.

5. Eligible Economic Development Projects

Eligible economic development projects must support job growth, increased sales revenue, and present a substantial economic benefit to the community. For-profit entities that are pursuing site expansion, site relocation, or site creation are just a few examples of eligible economic development projects. Mixed-use¹ projects will also be considered as eligible economic development projects, as long as the specific job creation and substantial sales requirements are met.

An eligible economic development project must:

- a) Result in the creation of a net increase of at least 100 new permanent full-time jobs in Massachusetts within 24 months upon receipt of a grant. A full-time job shall not be considered permanent unless it is maintained in Massachusetts for at least 5 years. A net increase in jobs refers to an increase in the total Massachusetts employment by the for-profit applicant and its affiliates during the relevant period.
- b) Result in the generation of substantial sales from outside the Commonwealth by participating for-profit entity or entities.

OR:

- a) Result in an economic benefit the Secretary determines is sufficiently exceptional.²

Applicants should note that these criteria are threshold and are considered minimums. Applications that convincingly demonstrate that they will create a greater number of jobs, greater permanency of those jobs, and substantial economic or other public benefit as determined by the Secretary will be considered more competitive than those that offer only the required minimum.

The Secretary will consider economic development projects for which multiple for-profit entities jointly file an application for a single grant. In such an application, the number of full-time positions and generated sales by the participating for-profit entities will be aggregated for the purposes of meeting the program criteria. It is not necessary for the economic development activities of the for-profit entities to be related, but all participating for-profit entities must demonstrate a need for the public infrastructure development for which MORE funding is requested.

6. Application Process

The application consists of two components, an initial determination application and a supplemental application. The municipality AND the for-profit entity (or entities) must fill

¹ For the purposes of the MORE Jobs Program, a 'mixed-use' project will refer to a combination of residential and commercial developments.

² Under Chapter 123 of the Acts of 2006, the provision for projects that offer "exceptional" economic benefits is intended to provide the Secretary with an opportunity to seize unanticipated and unusual opportunities. Examples might be projects that will create new industries that offer greater long term growth or projects that support other state investments. The decision to accept projects under this provision is solely within the Secretary's discretion. Any applications made under this section will be carefully scrutinized, and any grants awarded under this section will be closely monitored.

out both components of the application. The municipal application and the for-profit application should be submitted together.

Projects Requiring Multiple Infrastructure Funding Sources

If the size of the municipality's infrastructure project calls for the need of multiple infrastructure funding sources, an Infrastructure Investment Coordination Form must be submitted to EOHED and reviewed by the Infrastructure Advisory Council prior to submitting the Initial Determination Application.

Initial Determination Application

The purpose of the initial determination application is for the Executive Office of Economic Development to gain a general understanding of both the proposed public infrastructure project and the economic development project. The initial determination application is brief and sets out the basic facts upon which the applicants assert that the grant is warranted and that the applicants are ready, willing, and able to fulfill their responsibilities if the grant is awarded.

Municipal Application

In the municipal application, the public infrastructure project should be described in enough detail to establish its objective, scope, and estimated costs. The application must clearly state not only the public benefits of the proposed public infrastructure project, but also the relevance of the infrastructure development to the economic development project. Applicants must show that all activities for which funding is requested must be necessary and appropriate to the economic development project. Early consultation with relevant state agencies (MassHighway, MWRA, DEP, and/or MassDevelopment, etc.) is recommended.

The municipal application must:

- a) Include a detailed explanation of how it will manage the grant to achieve the desired outcomes. The municipality will be expected to demonstrate its ability to provide the needed public oversight for the public investment.
- b) Include a project budget outlining estimated costs and timelines which should include but not be limited to the following:
 1. Timeline showing prospective cash flow of grant funds.
 2. A description showing that the ancillary public infrastructure project will have adequate funding for its successful completion if the requested grant funds are provided.
 3. A description of other sources of public funding being sought or used for the ancillary public infrastructure project, including its uses, cash flow, and estimated amounts. The applicant must also demonstrate how the requirements of each source will be harmonized and met.
 4. Evidence that the ancillary public infrastructure project is likely to be delayed or significantly compromised if the requested grant funds are not provided.

- c) Include a detailed explanation of how the infrastructure and economic development project will advance at least one, and preferably two or more, of the 8 Infrastructure Investment Objectives, without adversely affecting the other objectives.

For Profit Application

In the for-profit application, the economic development project should be described in enough detail to establish its objective, scope, and timeline. The application must clearly state not only the public benefits of the proposed economic development project, but also the relevance of the public infrastructure activities to the economic development project. If more than one for-profit entity is participating in the application, each such entity must complete a separate application form.

The for-profit application must:

1. Indicate that the for-profit entity's filing is duly authorized by its Officers and Directors and that the signatory is duly authorized to file the application and represent the for-profit entity.³
2. Provide a project plan that details the economic development project's goals, activities, timeline, permitting, and financing objectives for the project. The project plan should sufficiently show that the project will not only meet the specified requirements, but also clearly show that its job creation goals or other economic development benefits will be achieved if the grant funds are provided.
3. Describe how the for-profit applicant will generate substantial sales from outside the Commonwealth.
4. Describe how the economic development project will result in the creation of a net increase of at least 100 new permanent full-time jobs⁴ in Massachusetts no later than 24 months after the receipt of grant date, as well as showing that those jobs will be maintained for at least 5 years.
5. Report current and estimated amount of taxable income expected from the project.
6. Provide a project budget outlining estimated costs and timelines that should include but are not limited to the following:
 - a) A description of all other sources of public funding being sought to support the economic development project.

³ The scope of the signatory's authority should be provided, together with the reporting structure. If the application is on behalf of more than one affiliated private entity (for instance, subsidiaries, holding companies, or other special purpose corporations) a clear explanation of the relationships and roles of each should be provided. In the supplemental application, the chain of corporate, partnership, trust, or other legal authority must be documented, with copies of all relevant documents certified by the Clerk of the Corporation or the equivalent.

⁴ "Permanent full-time employee", an individual who: (i) is described under the definition of "full-time employee" set forth in section thirty-one C of chapter sixty-three; (ii) at the inception the employment relationship described in clause (i) does not have a termination date which is either a date certain or determined with reference to the completion of some specified scope of work; and (iii) receives employee benefits at least equal to those provided to other full-time employees of the controlling business.

- b) A description showing that the economic development project will have adequate funding for its successful completion if the requested grant funds for the public infrastructure project are provided.
- c) Evidence that the economic development project is likely to be delayed or significantly compromised if the requested grant funds for the ancillary public infrastructure project are not provided.

Supplemental Applications

Selected applicants will be asked to submit supplemental applications based upon the Secretary's review of the initial determination applications. The supplemental application, like the initial determination application, is made under "oaths and penalties of perjury" and its representations will be integrated into a final grant contract. The application will require clear and convincing evidence of all assertions made in the initial determination application and will ask applicants to provide supporting documentation with respect to matters such as corporate organization, property ownership, cost estimates, etc. The supplemental application must document that the relationship between the public and for-profit entities was formed through an open process which provided the municipality with the best opportunity to advance its economic development goals in alignment with state policies.

As part of the final application an opinion of the municipal counsel will be required certifying that the relationship between the public and for-profit entities was formed in compliance with all applicable laws and regulations. A copy of all documents memorializing the relationship between the public and for-profit applicants must be provided with the final application.

7. Application Review

The initial determination application will be accepted on a rolling basis. An invitation to submit the supplementary application will be extended based upon the Secretary's review of the initial determination application.

Initial Determination applications will be reviewed by the staff and other agency personnel with relevant expertise. After careful review of all submissions, recommendations will be made to the Secretary of Housing and Economic Development who will then decide on one of the following outcomes for each application:

1. Applicant receives an invitation to submit a supplemental application.
2. Applicant's initial determination application is still under consideration, but more information is required of the applicant.
3. The application is rejected as presented.

Supplemental applications will be reviewed by the Secretary, staff, and if applicable other agency personnel with relevant expertise. A decision on the final awards will be made on the basis of the information provided in the supplemental application, which can result in one of the following outcomes:

1. Award will be granted.
2. Action on the application will be deferred.

3. Award is declined on the basis of the information presented.

Applicants are urged to advise the Executive Office of Housing and Economic Development promptly should any changes to the application occur (including, but not limited to estimated budget, costs, timeline). Applicants have a continuing obligation to update information submitted so that it is accurate. Information submitted as part of the applications will be incorporated into the grant agreement, should the grant be awarded to the applicant.

8. Award and Grant Process

Awards will be made on a rolling basis, subject to funding by the Executive Office of Administration and Finance. The award will be made through a grant agreement that is built on the Commonwealth's standard form contract, along with additional terms and conditions as the Secretary may deem appropriate. Both the for-profit entity and the municipality will execute a grant agreement memorializing their respective commitments and obligations and specifying consequences for non-compliance with such obligations. The commitments and representations that the applicant made in securing the grant will be essential conditions of the grant. No grantee will be funded for activities or expenses that occurred prior to the effective dates of the grant agreement. If grant funding is to occur in multiple payments, then the grant agreement shall establish which such payment shall constitute "receipt of the grant" for the purpose of the 24 month measurement period.

If any information has changed or is expected to change (either for the economic development project or the public infrastructure project) the grantees should advise program staff promptly. If a municipality is unable to begin drawing down funds within 6 months of the award date and/or contract start date, the project's performance schedule shall be carefully reviewed by the program staff for error and/or miscalculation. If it is determined that the project cannot reasonably be completed within the specified terms of the schedule and/or is no longer feasible, the original award may be suspended and/or revoked upon written order of the Secretary. If a project's budget changes, the Commonwealth has no obligation to increase or reprogram grant funds. Grantees should be aware that the effective date of the grant agreement is not the announcement of the award or the signing of an award letter. The grant agreement is not effective until it is signed by the Secretary and accepted by the Comptroller.

Grant funding will be made available to the municipality as a reimbursement for costs of the public infrastructure project (not to exceed the total awarded amount). In order to receive reimbursement, the municipality must submit invoices documenting the completion of work associated with the public infrastructure project. Approval of invoices for reimbursement may be delayed if the program staff believes the report is insufficient or requires further verification. Grantees are reminded that invoices cannot be accepted after the end of the fiscal year in which the activities occurred. Late invoices will not be accepted for payment. No final award will be made and no grant will be issued until adequate documentation has been provided.

9. Monitoring Process

Both the public infrastructure project and the economic development project will be reviewed periodically to determine their progress towards achieving the economic development and

public benefits upon which the grant was awarded. The municipality will be expected to submit quarterly reports detailing progress on the public infrastructure activities being funded. The for-profit entity will be expected to submit annual reports detailing the progress of the job creation and sales requirements.

Grantees will be expected to cooperate fully and promptly with any other request for information that the Secretary may make, particularly with respect to the achievement of expected project goals. Any foreseeable changes in project outcomes (i.e. job creation, sales, budget, scope, or schedule) should be reported promptly, with either a request for contract amendment or an explanation of why the grantee believes that no amendment is required. If the Secretary determines that the for-profit entity has not or is unlikely to meet the minimum required sales and employment increases, the Secretary may suspend the grant (including any payments pending), give both the municipality and for-profit entity notice and an opportunity to cure, or terminate the grant if the for-profit entity fails to provide clear and convincing evidence that the economic development requirements will be met. The Secretary's rights to suspend, condition or terminate the grant agreements are not exclusive and do not preclude other remedies, including but not limited to recouping previously paid funds if an applicant has made a material misrepresentation to the Commonwealth, declaring the for-profit entity ineligible for future programs administered by EOHED and/or reporting to other State agencies the for-profit entity's non-compliance.

10. Contact Information

For further information, please contact:

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